from TRS enhancements, they should not have to contribute to the TRS funding mechanism.

D. Mobile Service Providers Require Strong Interconnection Rights

Telocator supports the Commission's conclusion that CMS providers are generally entitled to continue to enjoy the interconnection rights now established for Part 22 licensees. Such co-carrier rights include the obligation of exchange carriers to negotiate interconnection agreements in good faith and to provide the interconnection capabilities reasonably necessary for the offering of CMS. It is important, however, that functionally equivalent services not be treated disparately in terms of the availability or cost of network interconnection. Rather, regulatory parity principles should govern interconnection policies as well as regulatory status.

For example, the entire paging industry merits strengthened and expanded interconnection rights whether it is classified as CMS or private and those rights should be the same for all paging companies. PCS is similarly entitled to federally protected interconnection rights regardless of regulatory classification, consistent with Telocator's comments in GN Docket No. 90-314.[36]

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[36] Telocator Comments at 13-14.

E. **Mobile Service Providers Should Not Be Subject to Equal Access Requirements**

In Paragraph 71 of the Notice, the FCC seeks comment on whether any or all classes of providers of commercial mobile service should be subject to equal access obligations like those imposed on LECs. For the reasons stated below, Telocator opposes application of equal access requirements to commercial mobile service providers.

Equal access obligations, which require commercial mobile service providers to allow mobile customers to pre-subscribe to interexchange providers of their choice, are unnecessary in the competitive wireless industry. Telocator consistently supports the reduction of regulatory requirements where competitive forces will result in more efficient outcomes. Application of equal access requirements to commercial mobile services would extend burdensome rules designed to limit monopoly power to a market with no monopoly players. With cellular, ESMRs, PCS, mobile satellite and unlicensed services all competing for a share of the rapidly expanding mobile services market, there is both the opportunity and incentive for interexchange carriers to compete vigorously for the long distance traffic from these providers.

Extension of equal access rules to all or some commercial mobile service providers creates significant burdens for the Commission in determining how to distinguish local from long distance mobile services. Additionally, equal access obligations create unjustified costs, consumer inconvenience, and inefficient networks. These rules impact the ability of wireless carriers to extend "local" calling to customers, develop integrated service areas, provide bundled services and negotiate bulk long distance rates.

In sum, Telocator supports maximum flexibility for PCS providers to design their networks, package services, and provide cost effective services based upon market demand. Imposition of equal access requirements would be contrary to Commission goals in licensing these services.

VI. STATES SHOULD FACE HIGH HURDLES IN SEEKING TO RATE REGULATE MOBILE RADIO SERVICES

The amendments to Section 332 properly preempt state entry regulation for mobile radio services and establish a presumption against state rate regulation where, as is currently the case, there are multiple providers serving mobile markets.[37] Accordingly, a state should bear a heavy burden in seeking to rebut that presumption. Moreover, the Commission should establish procedures that will ensure prompt resolution of state petitions to extend their

[37] 47 U.S.C. § 332(c)(3)(A); Conference Report at 492-94, 1993 U.S.C.C.A.N. at 1181-83.

regulatory authority where the pendency of the petition serves to perpetuate existing rate regulation.

States may seek to extend or impose rate regulation on mobile radio services where they can show either that (1) market conditions will not protect subscribers from unjust, unreasonable or discriminatory rates, or (2) such conditions exist and the service for which regulatory authority is sought is a replacement for landline telephone exchange service for a substantial portion of the population in the state.[38] In acting upon state petitions pursuant to these standards, the Commission should ensure that the full range of competitive alternatives available to consumers in the petitioning state are taken into consideration.

Based on the record described above and in related proceedings, the FCC can and should now make a threshold finding that the presence of effective competition in the paging and cellular markets is currently protecting subscriber interests.[39] This would place states on notice that their burden of establishing otherwise will be a difficult one to carry.

The Commission should also declare that, as a matter of fact and law, paging service does not constitute a "replacement for a landline telephone exchange service." It is self

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[38] 47 U.S.C. § 332(c)(3)(A).

[39] See, e.g., Cellular Telecommunications Industry Association Petition for Rulemaking, RM No. 8179 (filed Jan. 29, 1993).

evident that such a narrowband service could never satisfy this part of the standard for continuation of state rate regulation. Even cellular, which is not replacing landline telephone exchange service for any measurable portion of the population of any state at this time, manifestly would fail to qualify under this test. In sum, the evidence before the Commission supports the strong presumption that marketplace competition in mobile services markets protects consumers and the public interest. Consequently, the agency should establish short deadlines for acting upon state petitions and should ensure that it moves promptly to remove all vestiges of rate regulation of these competitive services.

VII. CONCLUSION

In view of the foregoing, Telocator urges the Commission to ensure that mobile services providers competing in the same markets are subject to the same rules; to remove unnecessary federal and state regulatory burdens on the mobile services industry to the greatest lawful extent; to guarantee mobile service providers the strong interconnection rights they need to deliver their services to the public; and to permit the wireless industry to use its facilities and spectrum flexibly to offer the greatest variety and number of innovative services to the public.

Respectfully submitted,

TELOCATOR, THE PERSONAL
COMMUNICATIONS INDUSTRY
ASSOCIATION

By: Thomas A. Stroup
Thomas A. Stroup
Mark Golden
TELOCATOR
1019 19th Street, N.W.
Suite 1100
Washington, D.C. 20036
(202) 467-4770

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